

## **REMARKS**

Upon entry of this Amendment, claims 1-9, 11-19 and 26-30 are pending in the Application. Claims 10 and 20-25 are canceled by this Amendment. The Applicants wish to thank the Examiner for the indication of allowable subject matter in claim 15.

### **112 Rejections**

The Examiner has rejected claims 18 and 19 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. The Examiner states that the claims recite both a footer and a bottom brace extended from each of the first and second panels, in contradiction to the specification which discloses a single footer attached to the third panel, and bottom braces attached to the first and second panels. The Applicants have amended claim 18 to clarify that the footer is extended away from a third panel. The Applicants submit that amended claim 18 overcomes the Examiner's 112 rejection, and respectfully request withdrawal of the rejection of claims 18 and 19.

### **102 Rejections**

The Examiner has rejected claims 1-8 and 20-24 under 35 U.S.C. 102(b) as being anticipated by Schrock (U.S. 2,718,091). Claims 20-24 are canceled by this Amendment. The Applicants have amended independent claim 1 to recite, among other things, a portable display device having first and second panels that are movable between a manufactured position and an operative position. The portable display device further recites a marquee surface integral with the first and second panels such that the marquee surface is substantially coplanar with the first and second panels in the manufactured position, and a footer integral with and movably coupled to at least one of the first and second panels. Amended independent claim 1 incorporates the limitations of dependent claim 10, which is now canceled.

Schrock is directed to a portable toy theater stage for use with puppets or marionettes. The theater comprises multiple panels, including an upper panel 17 that is coplanar with the first and second panels in a manufactured position and can project away from other panels of the theater when in use. The stage can have multiple configurations, depending on the type of puppet used, and includes two wings 13, 14, and supports 21, 22, such as slotted blocks of wood, to help maintain the upright position of the stage.

Schrock does not teach or suggest each and every element of amended claim 1, as Schrock does not teach or suggest the use of an integral footer movably coupled to one of the panels. Thus, the Applicants respectfully submit that claim 1 is allowable over Schrock.

The Examiner also rejected claim 10, the subject matter of which is now incorporated into claim 1, under 35 U.S.C. §103(a) as being unpatentable over Schrock in view of Taub, citing Taub as teaching integral footers coupled to a display assembly. The Examiner argues that it would have been obvious to one of skill in the art to provide the device of Schrock with footers as taught by Taub to increase the stability of the device. The Applicants respectfully disagree.

In order to establish a *prima facie* case of obviousness under 35 U.S.C. §103, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. (M.P.E.P. §706.02(j)). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *Id.* The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. *Id.* The Applicants respectfully submit that the Examiner has shown no motivation to combine the references.

The Schrock device utilizes supports 21, 22 to increase the stability of the stage during use. Thus, there is no reason to add additional features, such as footers, for the purpose of increasing the stability of the stage. Additionally, the Schrock device incorporates both a first set of side panels 11, 12 and the wing panels 13, 14 which stabilize the stage when it is in use. The addition of the wing panels 13, 14, as well as the position of the side panels 11, 12 during use of the stage give stability to the stage by providing more surface area to rest on the floor, as well as better balance to the stage during use.

Further, the purpose of the device of Schrock is to provide an easily transportable and easily erectable stage for a puppet show. The stage may include scenery painted thereon to simulate the setting of the story. Thus, it is important that the stage be aesthetically pleasing and provides minimal visual distractions to the viewer. Adding the footers of Taub to the stage of Schrock, as suggested by the Examiner, would detract from the visual appearance from the stage, and would thus interfere with one of the purposes of the Schrock design.

Thus, Schrock does not teach or suggest each and every element of claim 1 as amended, and Taub does not cure the deficiencies of Schrock. The Applicants respectfully submit that claim 1 is allowable over the cited references. Claims 2-9 depend from claim 1 and are thus allowable for the same reasons as discussed with respect to claim 1, as well as for other reasons not discussed herein.

The Examiner has also rejected claims 11, 16, and 17 under 35 U.S.C. 102(b) as being anticipated by Kellogg (U.S. 1,583,843). The Applicants have amended claim 11 to recite, among other things, first, second, and third panels movable between manufactured and operative positions, and a footer integral with and movably coupled to the third panel. The footer is oblique to the third panel when the first and second panels are in the operative position, the footer including a top edge coupled to the third panel and a bottom edge extending away from the third panel when the footer is oblique to the third panel.

Kellogg is directed to a display card having first and second panels F, a third panel C, and an intermediate member E coupled to the third panel. The panels are movable with respect to each other between various positions. As best shown in Fig. 3, the intermediate member E is, in one position, oblique to the third panel C with the bottom of the intermediate member E coupled to the third panel C and the top edge of the intermediate member E being spaced from the third panel C. Thus, Kellogg does not teach or suggest the footer of amended claim 11 as claim 11 recites a footer where the top edge is coupled to the panel and the bottom edge is spaced from the panel in the oblique position. The configuration of the intermediate member E of Kellogg is dictated by the score lines that allow the device of Kellogg to be manipulated between the position of Fig. 2 and the position of Fig. 3 such that there is no suggestion in Kellogg to change the configuration of the intermediate member E. Since Kellogg does not teach or suggest each and every element of claim 11, the Applicants respectfully submit that claim 11 is allowable over Kellogg. Claims 12-17 depend from claim 11 and are thus allowable for the reasons set forth above, as well as for other reasons not discussed herein.

### **103 Rejections**

The Examiner has rejected claim 9 under 35 U.S.C. 103(a) as being unpatentable over Schrock in view of Schirer (U.S. 5,960,848). Claim 9 depends from claim 1 and is thus allowable for the reasons discussed above with respect to claim 1, as well as for other reasons not discussed herein. Schirer does not cure the deficiencies of Schrock as discussed above. Thus, the Applicants respectfully request allowance of claim 9.

The Examiner has also rejected claims 10 and 25 under 35 U.S.C. 103(a) as being unpatentable over Schrock in view of Taub. Claims 10 and 25 are canceled by this Amendment.

The Examiner has also rejected claims 12-14 under 35 U.S.C. 103(a) as being unpatentable over Kellogg in view of Taub. Claims 12-14 depend from claim 11 and are thus allowable for the reasons discussed above with respect to claim 11, as well as for other reasons

not discussed herein. Taub does not cure the deficiencies of Kellogg as discussed above with respect to claim 11. Thus, the Applicants respectfully request allowance of claims 12-14.

**New Claims**

The Applicants have added new claims 26-30 by this Amendment to define further patentable subject matter. No new matter is added by these claims. New independent claim 26 is originally-filed claim 15 rewritten in independent form. The Examiner indicated that claim 15 included allowable subject matter that would be allowed if rewritten in independent form. Thus, the Applicants respectfully submit that claim 26 is allowable. Claims 27-30 depend from claim 26 and are allowable for the same reasons as for claim 26, as well as for other reasons not discussed herein.

For all of these reasons, entry of this Amendment and allowance of claims 1-9, 11-19 and 26-30 are respectfully requested.

The undersigned is available for a telephone conference.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Kevin P. Moran". The signature is fluid and cursive, with the first name "Kevin" and last name "Moran" clearly distinguishable.

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